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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,288	03/30/2001	Kevin L. Farley	2479.2052-000.	6799

21005 7590 12/27/2005

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EXAMINER
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HOM, SHICK C

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/823,288	<b>Applicant(s)</b> FARLEY ET AL.	
	<b>Examiner</b> Shick C. Horn	<b>Art Unit</b> 2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☒ Claim(s) 1,3,4 and 6-9 is/are allowed.  
 6) ☒ Claim(s) 10-13 and 15-17 is/are rejected.  
 7) ☒ Claim(s) 2, 5, 14, 18-20, 22 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/18/05 has been entered.

***Claim Objections***

2. Claims 2, 5, 11-20, and 22 are objected to because of the following informalities: in claims 2, 5, 11-20, and 22, line 1, which recite "A system," "A gateway unit," "An apparatus," "A system," are reciting the system, the gateway unit, the apparatus, and the system of the corresponding base claims, respectively, and not some other system, gateway unit, or apparatus, delete "A system," "A gateway unit," "An apparatus," "A system," and insert ---The system---, ---The gateway unit---, ---The apparatus---, and ---The system---, respectively, for clarity. Appropriate correction is required.

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 10-13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumaki et al. (6,473,411) in view of Lee et al. (6,601,101) and Cohen (4,527,267).

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Regarding claims 10-13 and 15-17:

Kumaki et al. disclose an apparatus for managing a handoff of a wireless path from the first base station to a second base station, the wireless path carrying a communication connection between a first device and a second device, the apparatus comprising: a sensing device configured to intercept packets from the first device that are destined for the second device (in Fig. 12 see the handoff control operation in the wireless mobile system including the first and second base stations 202, 203, and the device for managing handoff and intercepting the packets 220 from the first device to the second device); and a handoff optimizer configured to, at the beginning of the handoff, (i) generate an acknowledgment signal containing a window size value indicating that data transfer on the communication connection is paused and (ii) forward the generated acknowledgment signal to the second device; wherein the window size value is zero (see col. 54 lines 42 which recite when packet transmission is paused at a time of handoff, then the window size is adjusted to lower the transfer rate at the transmitting side and col. 65 lines 49-63 which recite the use of an acknowledgement signal for controlling communication) as in claims 10, 13; wherein the first device is an end user machine and the second device is a server (see the use of a

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server in Fig. 53) as in claim 11; wherein the communication connection is a Transmission control Protocol TCP connection (see the Internet in Fig. 53) as in claim 12; a handoff start and complete detector configured to detect the beginning and end of the handoff (see col. 18 lines 11-35 which recite the start and end time) as in claims 15-16; and a timer configured to time out prior to a normal timeout associated with the communication connection (see col. 19 lines 5-20 which recite the use of a timer) as in claim 17.

Kumaki et al. disclose all the subject matter of the claimed invention with the exception of generating a simulated acknowledgment signal and forward it to the second device as recited in claim 10.

Causey from the same or similar fields of endeavor teach that it is known to generate a simulated acknowledgment signal and forward it to the second device (see col. 11 line 15 to col. 12 line 14 which recite generating a simulated signal and providing it to the second base station to simulate changing power levels clearly reads on the simulated acknowledgment signal). Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the simulated acknowledgment signal as taught by Causey in the communications apparatus of Kumaki et al. The simulated

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signal can be implemented by connecting the handoff simulator of Causey to the handoff control system of Kumaki et al. The motivation for using the handoff simulator as taught by Causey in the communication apparatus of Kumaki et al. being that it provides more efficiency for the system since the system more easily test the soft handoff functionality and therefor improve accuracy of generating signal strength levels for the forward link signals.

***Allowable Subject Matter***

6. Claims 2, 5, and 22 would be allowable if rewritten to overcome the objection(s) above.

7. Claims 1, 3, 4, 6-9 are allowed.

8. Claims 14 and 18-20 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims and overcome the objections above.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Semper discloses a system and method providing backward compatibility of radio link protocols in a wireless network.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C. Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Monday to Friday with alternate Fridays off.

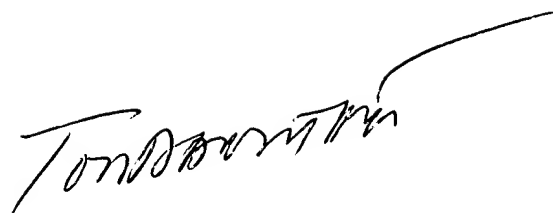
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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SH

A handwritten signature in black ink, appearing to read "Dang Ton", with a long, sweeping horizontal line extending from the end of the signature.

**DANG TON**  
**PRIMARY EXAMINER**